

Appl. No. 10/701,848
Amtd. dated July 5, 2005
Reply to Office action of May 5, 2005

REMARKS

Claims 1-22 are pending in the Application. The Examiner has rejected claims 1-22. Applicants respectfully traverse the rejection of claims 1-22 and request reconsideration of claims 1-22, in light of the following remarks.

Claim Rejections under 35 U.S.C. § 102(e)

Claims 1-6, 8, 9, 11-14 and 16-22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lajoie et al. (U.S. Pub. 2004/0015952A1). Applicants respectfully traverse the rejection.

With regard to the anticipation rejections, MPEP 2131 states, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). MPEP 2131 also states, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding claim 1, Applicants respectfully submit that the Lajoie reference fails to teach, suggest, or disclose at least, “loader software that supports a plurality of loaders”. The Office action alleges that the firmware integrity checker (FIC) of Lajoie (350 in Fig. 3) corresponds to the “loader software” of claim 1. Applicants respectfully disagree. A “loader” may be defined as “[a] utility that loads the executable code of a program into memory for execution.” (See, e.g., Microsoft Press Computer Dictionary Third Edition, 1997, page 287) The term “load” may be defined as “[t]o place information from storage into memory for processing, if it is data, or for execution, if it is program code.” (See, e.g., Microsoft Press Computer Dictionary Third Edition, 1997, page 287) A loader may therefore be defined as “a utility that places information from storage into memory for execution.” Applicants respectfully submit that the Office action has failed to identify where in the Lajoie reference such an element is taught. However, if Applicants were to agree, solely for the purpose of argument, that the FIC of Lajoie

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corresponds to the "loader software" of claim 1, then the Office action has failed to specifically identify in the Lajoie reference those elements that correspond to the "plurality of loaders" of claim 1. The Office action alleges that Lajoie discloses that "the firmware integrity checker supports transferring control to or loading both the application program and the upgrade program." (See item 4(b) on page 4 of the Office action) Applicants respectfully disagree. The mere transfer of control is not the same as loading, as is clear with respect to the above discussion of the terms "load" and "loading." Lajoie fails to teach, among other things, an application program or an upgrade program that is a loader.

Therefore, Applicants respectfully submit that the Lajoie reference fails to anticipate Applicants' claim 1, for at least the reasons given above. Claim 1 is an independent claim having dependent claims 2-15. Applicants believe that independent claim 1 is allowable. Because claims 2-15 are dependent claims of claim 1, Applicants respectfully submit that claims 2-15 are, therefore, also allowable for at least the same reasons given with respect to claim 1. Applicants therefore request that the rejection of claims 1-6, 8, 9, 11-14 under 35 U.S.C. § 102(e) be withdrawn.

Regarding claim 16, Applicants respectfully submit that the Lajoie reference fails to teach, suggest, or disclose, among other things, "storing a location in the file system of the saved information for updating firmware to a memory reference." Instead, Lajoie discloses a firmware header, which holds data associated with the current version of the firmware and data associated with the different programs found on the device (paragraph 0029, lines 1-4). The firmware header, in Lajoie, does not hold data associated with the downloaded and saved information for updating firmware.

Therefore, Applicants respectfully submit that the Lajoie reference fails to anticipate Applicants' claim 16, for at least the reasons given above. Claim 16 is an independent claim having dependent claims 17-22. Applicants believe that claim 16 is allowable. Because claims 17-22 are dependent upon claim 16, Applicants respectfully submit that claims 17-22 are,

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therefore, also allowable for at least the same reasons given with respect to claim 16. Applicants therefore respectfully request that the rejection of claims 16-22 under 35 U.S.C. § 102(e) be withdrawn.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 7, 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lajoie as applied to claims 1 and 6 above, respectively. Applicants respectfully traverse the rejection. Regarding claims 7, 10 and 15, claims 7, 10 and 15 are dependent claims of independent claim 1. Because claim 1 is allowable over the Lajoie reference, Applicants respectfully submit that claims 7, 10 and 15 are also allowable over Lajoie, for at least the reasons given above with respect to independent claim 1. Therefore, Applicants respectfully request that the rejection of claims 7, 10 and 15 under 35 U.S.C. § 103(a) be withdrawn.

Conclusion

Applicants believe that all claims 1-22 are in condition for allowance. If the Examiner disagrees or has any questions regarding this submission, Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge additional fees or credit overpayments

FROM McANDREWS, HELD, & MALLOY

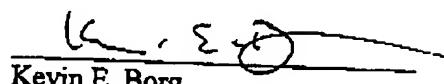
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to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,


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